

## **REMARKS**

### **Remarks About the Drawings:**

In an Office Action mailed October 13, 2004, the Examiner objected to the drawings. Applicants have amended the drawings by substituting reference number – 37 – for number “32” in Figure 2. Applicants submit that the reference numbers 37 are properly directed to the lines of weakness in the body panel, as referenced in the Specification at page 14, lines 18 and 21. Accordingly, the Examiner’s objections have been overcome and notice to that effect is earnestly solicited.

### **Remarks About the Information Disclosure Statements:**

The Examiner has not considered two Japanese references cited in an Information Disclosure Statement (IDS) filed January 29, 2002, since the statement failed to provide a concise explanation of those references, which were not in English. Applicants have submitted another Fourth Supplemental IDS citing the two noted references, each with an English language abstract, and a statement that the abstract is meant to serve as the concise explanation. Applicants respectfully request that the Examiner review the references cited in the IDS and initial the enclosed Form PTO-1449 to indicate her consideration thereof.

Applicants note that the Examiner has not initialed a Form PTO-1449 submitted with a Second Supplemental Information Disclosure Statement (Second Supp. IDS) filed August 23, 2002. As shown in the IFW, the Second Supp. IDS was filed on August 23, 2002, together with a Form PTO-1449 (Tab A). The two foreign references are also provided on the IFW, with the Japanese reference (c8) having a full translation included therewith as noted on the Form PTO-1449. Applicants respectfully request that the Examiner review the references cited in the Second Supp. IDS and initial the Form PTO-1449 to indicate her consideration thereof.

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Ref. No.: 659-877

**Remarks About the Rejections Under 35 USC 112(2):**

The Examiner has rejected claims 1-49 as being indefinite. Applicants have amended claim 1 (and also claims 11, 14-18 and 21) as suggested by the Examiner, such that the rejection of claims 1-31 has been overcome. Applicants are not sure as to what rejection is being made to claims 32-49 under 35 USC 112(2), as the Office Action is silent with respect to those claims. If any issues remain with respect to those claims, the Examiner is respectfully invited to contact the undersigned attorney.

**Remarks About the Rejections of Claims 1-31:**

The Examiner has rejected independent claim 1 as being made obvious over UK patent application GB 2 308 290 A to Fenfors in view of USP 5,476,702 to Datta, USP 5,224,405 to Pohjola and/or USP 5,556,504 to Rajala. As stated by the Examiner, Fenfors does not disclose or suggest any particulars as to how the fastener members are applied. Applicants respectfully disagree. Fenfors teaches the application of fastener members, but teaches *away* from Applicants' claimed method. Moreover, the references fail to disclose all of the limitations of claim 1 and there is no suggestion to combine the references as asserted by the Examiner. Accordingly, the Examiner has failed to make out a prima facie case of obviousness and the claims should be passed to allowance on the next Office Action.

As a threshold matter, Fenfors does not disclose front and rear body panel webs having spaced apart terminal crotch edges, with "discrete crotch portions spaced along said first machine direction and extending between said continuous front and rear body panel webs and *across said spaced apart terminal crotch edges* of said continuous front and rear body panels," as recited in claim 1. Rather, the absorbent core of Fenfors, applied by the Examiner as the crotch portion, is disposed between and does not cross the terminal edges of the waistband portions 2 while the back sheet and top sheet of Fenfors extend to the waist edge and are not spaced therefrom (see,

e.g., Fenfors at page 5, lines 7-14; FIG. 1). Since none of the other cited references teach the claimed construction either, claim 1 should be passed to allowance.

Moreover, even if the cited references taught all of the limitations of claim 1, there is absolutely no suggestion to combine the references. Indeed, the references actually teach against such a combination.

In particular, Fenfors discloses that fastener strips 8 and 13 each have a material surplus 9, 14, or loop, formed above the line of separation, which results in a gap being left beneath the surplus 9, 14 (Fenfors at page 7, lines 8-24; FIG. 1). During the manufacturing process, the lines of separation are broken, with the surplus material 9,14 flattening out by the application of a tensile force. The first and second strips remain intact, since they are not subject to any excessive tension due to the surplus material which was provided (Fenfors at page 8, lines 5-10). Accordingly, Fenfors teaches that it is necessary for the fastener strips to have a surplus loop of material.

Applicants submit, however, that Datta, Pohjola or Rajala do not disclose or suggest an apparatus or method for engaging and transferring a strip having a loop of surplus material, especially when the surplus material is *facing towards*, and would necessarily have to be engaged by, the engaging surface of the transfer apparatus. Rather, the devices of those references engage flat members, for example by way of a vacuum – there is no teaching that the devices can engage a surface having a loop or surplus material. Indeed, the vacuum may likely remove the surplus material.

With respect to the fastener strip 5, to the extent it is needed at all (see Fenfors at page 6, line 10), the strip does not have any tabs or other characteristics requiring it to be oriented in any particular fashion. Accordingly, any rotation of the strip would be extraneous, requiring an extra step at additional costs and opportunity for break down in the system. Indeed, when a line of separation is formed in the strip prior to its application so as to be aligned with a line of separation in the underlying web

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(Fenfors at 6, lines 19-25), the strip is necessarily traveling in the machine direction such that it does not need to be rotated. Accordingly, Fenfors also teaches against, and does not disclose or suggest, rotating the strip 5 prior to its application.<sup>1</sup>

For all of these reasons, claims 1-31 should be passed to allowance.

**Remarks About the Rejections of Claims 32-49:**

The Examiner rejected claim 33<sup>2</sup> as being made obvious over USP 5,556,504 to Rajala in view of USP 5,499,219 to Roessler and/or USP 5,900,101 to Justmann. Applicants respectfully disagree. Specifically, there is no suggestion to combine Rajala with Roessler or Justmann.

Both Roessler and Justmann disclose systems for making fasteners moving in a machine direction that are applied to a substrate also moving in the *machine* direction without rotating the fasteners about an axis perpendicular to the machine direction. For example, Justmann discloses cutting the fastener webs immediately prior to applying them to the article web moving in the same direction (Col. 11, lines 40-50, FIG. 2). Roessler similarly discloses securing the fasteners to an article moving in the same direction (see, e.g., FIG. 11). Accordingly, Justmann and Roessler teach against rotating the fasteners once they are separated but before applying them to another web.

Rajala also does not provide any motivation for incorporating the fasteners webs of Justmann or Roessler. While Rajala generally refers to discrete elements as including various fasteners, Rajala does not disclose what orientation such fasteners would have, if they formed the web 136, relative to the substrate web 134 prior to

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<sup>1</sup> Applicants further note that claim 15 recites releasably engaging one of the front and rear body panels with a refastenable portion, while strip 5 are applied with the loop elements facing away from the sheet, i.e., in a non-releasable engagement, such that the fastener strip 8 can be releasably engaged therewith.

rotation, or what orientation the fasteners would have, if they were configured as the discrete parts 132, relative to the substrate web after rotation. In other words, Rajala does not disclose that the fasteners, if making up the webs 136, are oriented as taught by Justmann or Roessler. The fastener tabs, or other fastening portion (if existing at all), may extend in the cross direction or the machine direction prior to the rotation. Indeed, with respect to specifics, Rajala discloses only that the webs 136 are configured as spunbond layers with elastics (Col. 16, lines 41-60, FIG. 8). Since, as explained above, Justmann and Roessler teach against rotating streams of fasteners as oriented therein, there simply no suggestion to combine the references as suggested by the Examiner.

In this regard, the Examiner must consider the references as a whole, and not pick and chose portions thereof with hindsight analysis. When viewing the references as a whole, there simply is no suggestion to combine the references as suggested by the Examiner and claims 32 and 34-49 should be passed to allowance.

**Remarks About the Obviousness-Type Double Patenting Rejections:**

The Examiner has rejected various claims as constituting obviousness-type double patenting over various claims of USP Nos. 6,682,626 and 6,743,321, and as constituting provisional obviousness-type double patenting over application No. 10/756,013.

In response, and in order to expedite the allowance of this application, Applicants submit herewith a Terminal Disclaimer, together with the appropriate fee, to disclaim the term of any patent issuing from this application relative to the '626 and '321 patents. Accordingly, the Examiner's rejections relative to those patents have been overcome.

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<sup>2</sup> Applicants have rewritten claim 33 in independent form as claim 32.

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With respect to the '013 application, Applicants note that the claims therein are directed to an apparatus, not a method, and further that those claims were restricted out from the application underlying the '626 patent referenced above. Since an obviousness-type double patenting rejection would not be proper between the '013 application and the '626 patent, Applicants submit that it is not proper here either.

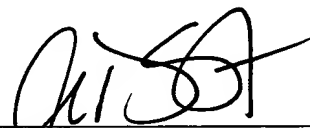
**CONCLUSION:**

For all of the reasons set forth above, this application should be passed to allowance. If for any reason this application is not considered to be in condition for allowance and an interview would be helpful to resolve any remaining issues, the Examiner is respectfully requested to call the undersigned attorney at (312) 321-4713.

Respectfully Submitted,

Dated: January 13, 2005

By:

  
\_\_\_\_\_  
Andrew D. Stover  
Reg. No. 38,629  
Attorney for Applicants

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**IN THE DRAWINGS:**

Figure 2 has been amended by changing reference number "32" to number --  
37 --.



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TRANSMITTAL LETTER			Case No. 659/877
Serial No. 09/954,506	Filing Date September 14, 2001	Examiner To be assigned	Group Art Unit 3761
Inventor(s) Sanders et al.			
Title of Invention METHOD AND APPARATUS FOR ASSEMBLING REFASTENABLE ABSORBENT GARMENTS			

TO THE COMMISSIONER FOR PATENTS

Transmitted herewith is a Second Supplemental Information Disclosure Statement; Form PTO-1449; 8 cited references; Response to Notice to File Corrected Application Papers and Submission of Formal Drawings with a copy of the Notice to File Corrected Application Papers; nine (9) sheets of formal drawings; and return postcard.

- ☐ Small entity status of this application under 37 CFR § 1.27 has been established by verified statement previously submitted.
- ☐ A verified statement to establish small entity status under 37 CFR §§ 1.9 and 1.27 is enclosed.
- ☐ Petition for a \_\_\_\_\_ month extension of time.
- ☒ No additional fee is required.
- ☐ The fee has been calculated as shown below:

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				Small Entity		Other Than Small Entity		
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	Rate	Add'l Fee
Total		Minus			x \$9=		x \$18=	
Indep.		Minus			x 42=		x \$84=	
First Presentation of Multiple Dep. Claim					+\$140=		+\$280=	
				Total add'l fee	\$		Total add'l fee	\$

- ☐ Please charge Deposit Account No. 23-1925 (BRINKS HOFER GILSON & LIONE) in the amount of \$\_\_\_\_\_. A duplicate copy of this sheet is enclosed.
- ☐ A check in the amount of \$\_\_\_\_\_ to cover the filing fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this communication or credit any overpayment to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.
- ☒ I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

Andrew D. Stover  
Registration No. 38,629  
Attorney for Applicant

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231, on 8/14/02

Date:

8/14/02

Signature:





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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope, with sufficient postage, addressed to: Commissioner for Patents, Washington, D.C. 20231, on

8/14/02  
Date of Deposit

Andrew D. Stover  
Name of Applicant, Assignee or  
Registered Representative

[Signature]  
Signature

8/14/02  
Date of Signature

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Our Case No.: 659-877

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Sanders

Serial No.: 09/954,506

Filing Date: September 14, 2001

For: Method and Apparatus for  
Assembling Refastenable  
Absorbent Garments

Examiner: To be assigned

Group Art Unit No.: 3763

**SECOND SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

In compliance with the duty of disclosure under 37 C.F.R. § 1.56, it is respectfully requested that this Second Supplemental Information Disclosure Statement be entered and the documents listed below and on the attached Form PTO-1449 be considered by

the Examiner and made of record. Copies of the listed documents required by 37

C.F.R. § 1.98(a)(2) are enclosed for the convenience of the Examiner.

The references now cited are the following:

No.	Date	Name
6,132,410 B1	10/2000	Van Gompel et al.
6,217,563 B1	4/2001	Van Gompel et al.
6,264,641 B1	7/2001	Van Gompel et al.
6,336,922 B1	1/2002	Van Gompel, et al.
6,361,527 B1	3/2002	Van Gompel, et al.
6,375,646 B1	4/2002	Widlund, et al.

#### **FOREIGN DOCUMENTS**

DOCUMENT NUMBER	DATE	COUNTRY
EP 0 907 510 B1	3/2002	EPO
JP 03176053 A	7/1991	Japan

In accordance with 37 C.F.R. § 1.97(g),(h), this Second Supplemental Information Disclosure Statement is not to be construed as a representation that a search has been made and is not to be construed to be an admission that the information cited is, or is considered to be, material to patentability as defined in 37 C.F.R. § 1.56(b).


This Second Supplemental Information Disclosure Statement is being filed prior to the receipt of the first Official Action reflecting an examination on the merits and hence is believed to be timely filed in accordance with 37 C.F.R. § 1.97(b). No fees are believed to be due in connection with filing of this Second Supplemental Information Disclosure Statement, however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be deemed necessary for any reason relating to these material, the Commissioner is

hereby authorized to deduct said fees from Brinks Hofer Gilson & Lione Deposit

Account No. 23-1925. A duplicate copy of this document is enclosed.

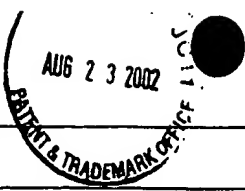
Applicant(s) respectfully request that the listed documents be made of record in the present case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. Stover', written over a horizontal line.

Andrew D. Stover  
Registration No. 38,629  
Attorney for Applicant(s)

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USPTO FORM 1449  
ORIGINALLY FILED

FORM PTO-1449	SERIAL NO. 09/954,506	CASE NO. 659-877
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT	FILING DATE September 14, 2001	GROUP ART UNIT 3763
	(use several sheets if necessary)	
APPLICANT(S): Sanders, et al.		

REFERENCE DESIGNATION                      U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS/ SUBCLASS	FILING DATE
	C1	6,132,410 B1	10/2000	Van Gompel, et al.		
	C2	6,217,563 B1	4/2001	Van Gompel, et al.		
	C3	6,264,641 B1	7/2001	Van Gompel, et al.		
	C4	6,336,922 B1	1/2002	Van Gompel, et al.		
	C5	6,361,527 B1	3/2002	Van Gompel, et al.		
	C6	6,375,646 B1	4/2002	Widlund, et al.		

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS/ SUBCLASS	TRANSLATION YES      NO
	C7	EP 0 907 510 B1	3/2002	EPO		
	C8	JP 03176053 A	7/1991	Japan		X

EXAMINER INITIAL	OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)	

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.